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SENATE BILL 208

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Richard C. Martinez

AN ACT

RELATING TO WORKERS' COMPENSATION; AMENDING A SECTION OF THE
WORKERS' COMPENSATION ADMINISTRATION ACT TO PROHIBIT
ACCELERATED PAYMENT OF MODIFIERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 52-5-12 NMSA 1978 (being Laws 1986,
Chapter 22, Section 38, as amended) is amended to read:

"52-5-12. PAYMENT--PERIODIC OR LUMP-SUM.--

A. It is stated policy for the administration of
the Workers' Compensation Act and the New Mexico Occupational
Disease Disablement Law that it is in the best interest of the
injured worker or disabled employee that ~~[he]~~ the worker or
employee receive benefit payments on a periodic basis. Except
as provided in Subsections B, C and D of this section, lump-sum
payments in exchange for the release of the employer from

underscored material = new
[bracketed material] = delete

1 liability for future payments of compensation or medical
2 benefits shall not be allowed.

3 B. With the approval of the workers' compensation
4 judge, a worker may elect to receive compensation benefits to
5 which ~~he~~ the worker is entitled in a lump sum if ~~he~~ the
6 worker has returned to work for at least six months, earning at
7 least eighty percent of the average weekly wage ~~he~~ the worker
8 earned at the time of injury or disablement. If a worker
9 receives ~~his~~ the benefit income in a lump sum, ~~he~~ the
10 worker is not entitled to any additional benefit income for the
11 compensable injury or disablement and ~~he~~ the worker shall
12 only receive that portion of the benefit income that is
13 attributable to the impairment rating as determined in Section
14 52-1-24 NMSA 1978. In making lump-sum payments, the payment
15 due the worker shall not be discounted at a rate greater than a
16 sum equal to the present value of all future payments of
17 compensation computed at a five-percent discount compounded
18 annually.

19 C. After maximum medical improvement and with the
20 approval of the workers' compensation judge, a worker may elect
21 to receive a partial lump-sum payment of workers'
22 ~~compensation~~ impairment benefits for the sole purpose of
23 paying debts that may have accumulated during the course of the
24 injured or disabled worker's disability. The worker shall
25 receive only that portion of the benefit income that is

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1 attributable to the impairment rating pursuant to Section
2 52-1-24 NMSA 1978. Benefits attributable to partial disability
3 modification pursuant to Sections 52-1-26.1 through 52-1-26.4
4 NMSA 1978 shall not be accelerated and shall not be paid as
5 part of a lump-sum payment unless and until the parties agree
6 and the workers' compensation judge approves the agreement.

7 D. If an insurer pays a lump-sum payment to an
8 injured or disabled worker without the approval of a workers'
9 compensation judge and if at a later date benefits are due for
10 the injured or disabled worker's claim, the insurer alone shall
11 be liable for that claim and shall not in any manner, including
12 rate determinations and the employer's experience modifier,
13 pass on the cost of the benefits due to the employer.

14 E. If the compensation benefit to which a worker is
15 entitled is less than fifty dollars (\$50.00) per week, any
16 party may petition the workers' compensation judge to
17 consolidate that payment into quarterly installments.

18 F. Periodic compensation payments under the
19 Workers' Compensation Act or the New Mexico Occupational
20 Disease Disablement Law for disability arising from primary
21 mental impairments or secondary mental impairments shall be
22 paid as incurred and shall not be included in any lump-sum
23 payments."